

### **REMARKS**

This amendment is timely filed in response to the Office Action dated June 23, 2005 and is filed with a Request for Continued Examination ("RCE").

At the time of the Office Action, claims 1-3 were pending. In the Office Action, claims 1-3 were rejected under 35 U.S.C. §102(b). The rejections are set out in more detail below. In this response, claim 1 has been amended. No new matter has been added.

#### **I. Fees for this Response**

A check for the RCE is included herewith. Nevertheless, authorization is also given to charge any underpayments and to credit any overpayments to Deposit Account No. 50-0951.

#### **II. Teleconference with Examiner**

The undersigned counsel, Mark D. Passler and Peter A. Chiabotti want to thank examiner Marc A. Patterson for the teleconference courteously granted on September 15, 2005. During the course of the teleconference, the undersigned counsel and the examiner discussed the cited reference, namely German Patent 2546278 B1 to Waar ("Waar") and the amendments provided herein as proposed amendments. Arguments distinguishing the cited reference from the recited claims were discussed in accordance with the remarks made below. Although the examiner required an RCE to fully consider the amendments, the examiner provided favorable comments that the claims presented herewith appeared patentable over Waar. To the extent an interview statement is required, the entirety of this submission is believed to provide a complete statement under 37 C.F.R. §1.133. *See* M.P.E.P. §713.01.

#### **III. Review of the Claims**

Prior to a review of the rejections on art, a review of claim 1, as amended, is appropriate. Claim 1 recites a sleeve of elasticated netting provided with a seam such that when a product having a radius is encapsulated by the sleeve, a portion of the seam will project radially relative to the product and will not become embedded in the surface of the product when it is cooked. Support for the amendments can be found through the specification and figures. *See eg.*, Fig. 2.

Claim 2 further recites that the seam extends longitudinally of the sleeve offset from the centre of the sleeve, so that the projection is a small proportion of the width of the sleeve isolated by the seam from the remainder of the sleeve. Also, claim 3 recites that the seam is sewn with yarn stitches which will unravel when an end of the yarn is pulled.

**IV. The Claims of the Present Application are Patentable Over the Cited Art**

**A. Review of the Rejections on Art**

Claims 1-3 were rejected under 35 U.S.C. §102(b). In support of these rejections, the Office Action asserted that

[w]ith regard to claim 1, Maar discloses a sleeve (flexible tube; page 9, line 2 of second paragraph of English translation) of netting (a net; page 10, lines 4-5 of first paragraph of English translation) that is elasticated (it consists of threads of a highly elastic material; page 10, lines 12-14 of English translation) provided with a seam (a connection between longitudinal threads '4' and an opposite mesh '2' by a pull thread '7' as shown in Figure 1; page 10, lines 17-19 of English translation) such that when a product is encapsulated by the sleeve a portion of the sleeve will project from the product (Maar discloses that the sleeve encases the product entirely, because Maar discloses on page 7, lines 7-8 of the third paragraph that the product, a roast, has the same structure, the structure of the netting, on its entire surface; because the length of the of the pull thread extends beyond the length of the net, as shown in Figure 1, the length of the pull thread also extends beyond the length of the product, and therefore projections from the product because it is displayed outwardly by the product, and it is therefore a portion of the sleeve that projects from the product) and will not become embedded in the surface of the product when it is cook (in the condition of roasting, the net imparts only an extremely slight radial force so that the net is not pressed into the roasting crust; page 6, final line of the second paragraph; page 7, lines 1-3 of English translation). *Office Action*, pgs. 2-3, ¶ 3.

**B. The Claims are Patentable Over the Cited Reference**

As discussed during the teleconference with examiner, Waar does not include the combination of features recited in claim 1. In the Office Action, pull thread 7 was identified as a projection of Waar. Nevertheless, pull thread 7 cannot be considered to be a radial projection. Furthermore, Waar certainly does not include a seam that projects radially relative to the enclosed product. Withdrawal of the rejection of claim 1 in view of Waar is respectfully requested.

In light of the reasoning set forth above, Applicant respectfully submits that claim 1 is patentable over the references of record. Additionally, claims 2 and 3 are believed to be patentable due to their dependence upon an allowable base claim and for further features recited therein.

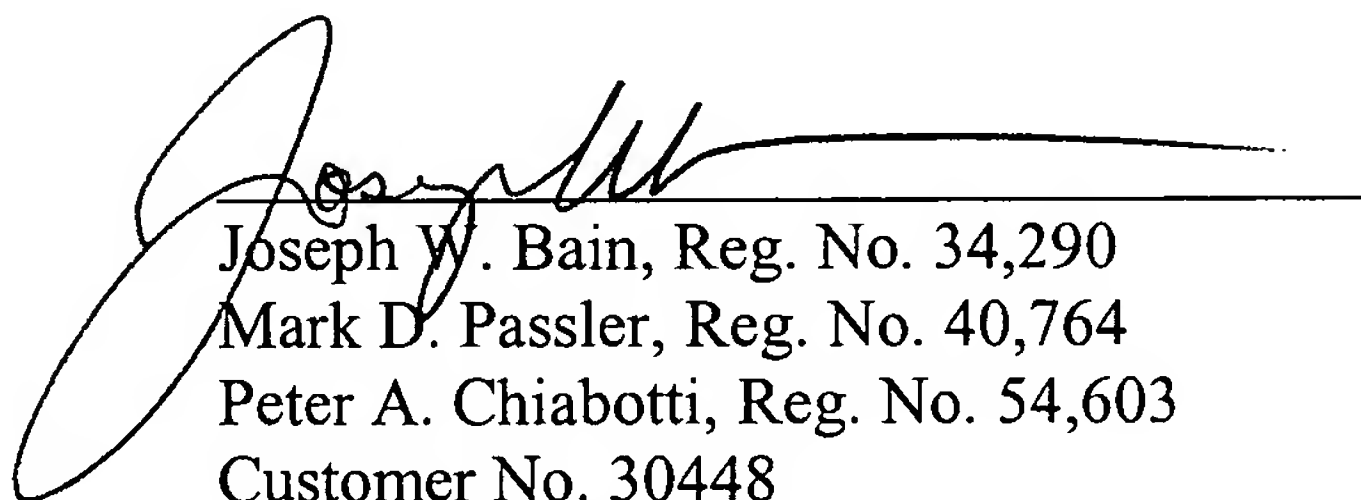
**V. Conclusion**

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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